

REMARKS

Reconsideration and timely allowance of the pending claims, in view of the following remarks, are respectfully requested.

In the Notice of Non-Responsive Amendment of July 13, 2005, the Examiner asserted that the changes to claim 1, as submitted in the Amendment of April 8, 2005, were not responsive as they allegedly draw upon non-elected species.

By this Preliminary Amendment, Applicant has amended claim 1 to include the features and limitations of claims 1, 4, and 23 as presented in the Amendment of November 16, 2004. The features of dependent claims 4 and 23 were examined prior to the Final Office Action of January 27, 2005 and were not deemed to be directed to a non-elected species. The Examiner cannot, therefore, now assert that the combination of claims 1, 4, and 23 are directed to a non-elected species.

Regarding the Final Office Action, the Examiner rejected claims 1, 3-4, 10, 12, and 14, under 35 U.S.C. §102(b), as being anticipated by Mogi '802 (JP 08-249802); rejected claim 2, under 35 U.S.C. §103(a), as being unpatentable over Mogi '802; and rejected claim 11, under 35 U.S.C. §103(a), as being unpatentable over Mogi '802 in view of Hida '403 (JP 2000-149403).

Prior to this Preliminary Amendment, claims 1-4, 10-12, 14, and 21-23 were pending, of which claim 1 is independent. By this Amendment, Applicant has amended claims 1, and 21 to provide a clearer presentation of the claimed subject matte and has cancelled claims 4 and 23, without prejudice or disclaimer. As such, claim 1-3, 10-12, 14 and 21-22 are presented for examination, of which claim 1 remains as the sole independent claim.

Applicant respectfully traverse the rejections of the claims, under 35 U.S.C. §102(b) and §103(a), for the reasons presented below:

I. Prior Art Rejections of Claim 1 Under 35 U.S.C. §102(b).

Independent claim 1 has been amended to include features of dependent claims 4 and 23 and now positively recites that the at least one notch or groove, provided on at least one portion of the peripheral side, is formed at an edge of the peripheral side to enable tactful recognition of the notch or groove. Independent claim 1 also positively recites that the peripheral side is provided with a plurality of portions in which each of the portions have the at least one notch or groove.

Unlike the present invention, however, the Mogi '802 reference teaches an optical disk 100 having a continuous pattern, such as, a stepped shape, tapered shape, semicircular shape, or zig-zag shape, along the entire peripheral edge of the disk. (*See, e.g., Mogi '802: FIGS. 1-6*). By virtue of being continuous along the entire peripheral edge of the disk, the optical disk cannot be construed as having a plurality of portions along the edge of the peripheral side, as required by claim 1. Nor can it construed as having at least one notch or groove within each of the portions, as required by claim 1.

For at least these reasons, claim 1 cannot be reasonably construed as being anticipated by Mogi '802. Moreover, as best understood, none of the applied references, whether taken alone or in combination, teach or suggest the combination of features recited by claim 1. Accordingly, claim 1 is patentably distinguishable over the applied references and the reconsideration and withdrawal of the prior art rejections, under 35 U.S.C. §102(b) and §103(a), is respectfully requested.

Applicant additionally submits that because claims 2-3, 10-12, 14, and 21-22 depend either directly or indirectly from claim 1, claims 2-3, 10-12, 14, and 21-22 are also patentable by virtue of dependency, as well as for their additional limitations.

II. Conclusion

All matters having been addressed and in view of the foregoing, Applicant respectfully request the entry of this Amendment, the Examiner's reconsideration of this application, and the immediate allowance of pending claims 1-3, 10-12, 14, and 21-22.

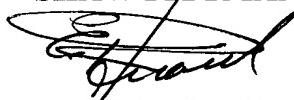
Applicant submits that the entry of this Amendment is proper under 37 C.F.R. §1.116 as the claim changes: (a) place the application in condition for allowance for the reasons discussed herein; (b) do not require any further consideration as the changes incorporate, in one form or another, features already searched; and (c) places the application in better form for an Appeal, should an Appeal be necessary.

Applicants' Counsel remains ready to assist the Examiner in any way to facilitate and expedite the prosecution of this matter.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975, Order No. 008312-0284993. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

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